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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Human Rights Advocates Inc., a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[31 January 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The Human Cost of Economic sanctions: A Comprehensive Approach

A. Introduction

Unilateral coercive measures—primarily in the form of economic sanctions, both comprehensive and targeted—have been widely documented as negatively impacting the human rights of the citizens in the target country.1 While comprehensive economic sanctions are typically no longer used due to the extreme humanitarian impact resulting from across-the-board sanctions and embargoes, "smart" or targeted sanctions, specifically designed to impact certain state actors or industries, have also led to significant humanitarian issues.2 These human-rights-violating sanctions have been used by the United States of America, the United Kingdom of Great Britain and Northern Ireland, and in select instances, the U.N. Security Council in an ironic attempt to deter human rights violations in already fragile states heading toward collapse or authoritarian crackdowns.

In Cuba, following the collapse of the Soviet Union in the early 1990s and subsequent loss of the Soviet Union as a trading partner, population level measures of health declined and then worsened with the tightening of economic sanctions by the United States.3 Comprehensive studies found that the embargo contributed significantly to malnutrition in Cubans, hitting women and children especially hard.4 Other negative effects include poor water quality, lack of access to medicines and medical supplies, and limited exchange of medical and scientific information due to travel restrictions and currency regulations.5

This is hardly a unique effect of economic sanctions intended to alter target state policies: comprehensive sanctions against Yugoslavia in the mid-1990s backfired and increased its targeted leaders' power and political influence in direct contrast to the sanctions' goal.6 Sanctions on Iraq led to widespread humanitarian concerns, including the mortality rate among Iraqi children doubling while sanctions were enforced.7 Countless other sanctions episodes, both unilateral and multilateral, contributed to the consensus that economic sanctions often violate human rights in the targeted country.

B. Resolutions to Date and Outstanding Issues

The Human Rights Council has adopted the issue of unilateral coercive measures into its agenda and, among other measures, has called upon states to stop adopting, maintaining, or implementing unilateral coercive measures with extraterritorial effects intended to create obstacles to trade relations among states. The Special Rapporteur found that extraterritorial sanctions inhibit the ability of the targeted country and its population to interact with the global and financial community due to over-compliance by trading partners of targeted countries.8 This results in a "de facto" blockade of the target state and voluntary compliance of economic actors not subject to the jurisdiction of the targeting state.9 To ameliorate this, the following issues should be addressed: 1) whether extraterritorial reach of sanctions is lawful and permissible under international law; 2) whether sanctions-imposing states are subject to extraterritorial

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1 Wood, Reed M. *"A Hand upon the Throat of the Nation": Economic Sanctions and State repression, 1976-2001*. International Studies Quarterly. University of North Carolina at Chapel Hill, 2008 pp 490.

2 Id. at 493-4.

3 For example, see Garfield R, Santana S. *The impact of the economic crisis and the US embargo on health in Cuba*. American Journal Public Health, 1997; 87: 15-20.

4 Id. The report also found that doctors in Cuba had access to less than 50% of the drugs on the world market, and that food shortages led to a 33% drop in caloric intake between 1989 and 1993.

5 Id.

6 Allen, Susan. "The Domestic Political Costs of Economic Sanctions". The Journal of Conflict Resolution, Vol. 52, No. 6 (December, 2008), pp. 916-944.

7 Shin, Chol, and Novotny, "Economic Sanctions towards North Korea." British Medical Journal, Vol. 339, No. 7726 (17 October 2009), pp. 875-876.

8 Report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights. A/HRC/36/44 (July 26, 2017) p. 8.

9 Id.

obligation under human rights instruments in relation to the negative effects of sanctions; 3) whether international institutions can regulate the scope and effects of sanctions; and 4) how international institutions can regulate sanctions, such as a program directed at drafting regulatory measures. The current program and adopted resolutions are moving in the right direction, however, this issue is complicated and should not be addressed in a piecemeal fashion.

C. A Comprehensive Approach: What Needs to be Done First?

Empirical studies and country reports all point to the same thing: unilateral coercive measures in the form of economic sanctions have led to human rights abuses. However, missing from U.N. literature is the same empirical approach to enumerating what specific features these sanctions have that lead to human rights abuses. Without first researching which features of sanctions lead to human rights abuses, one cannot hope to resolve this issue.

1. What measures lead to violations?

Economic sanctions are known to affect the right to life, health, and adequate standard of living, including food, clothing, housing and medical care, and freedom from hunger.10 The potential for meaningful study and evaluation of these factors is expansive, as are the factors which contribute to the enjoyment of human rights. However, the main indicia of human rights enjoyment or violation should focus on the health and welfare of the average citizen of the target state and how, if at all, their livelihood has been affected by the economic sanctions in place. For example, under U.N. sanctions, Iraq saw the child mortality rate double; Cuba, under U.S. embargo, saw severe malnutrition and shortages of medicine which led to higher mortality rates for otherwise treatable and curable diseases.11 Changes in GDP should be recorded, as well as import-export ratio. These are only examples—there are many more factors which relate to the effects sanctions have on human rights.

Some of the more damning features of economic sanctions depend on the type of sanctions imposed and the situation of the target country. For example, if a country relies on one main export, and that export industry is sanctioned, that has potential to be effective in terms of the sanctions, but also deadly to the citizens—if there is no longer money to provide for food, medicine, and basic necessities, target state policies may change but at an enormous human cost. Whether a country is democratic or autocratic in nature also may affect the impact of sanctions: a democracy will likely adopt new policies faster to protect its people; a dictatorship will not.12

2. UN registry of all extraterritorial sanctions having coercive impact

The Special Rapporteur—in his most recent report but also in previous reports—has called for the creation of a registry detailing all extraterritorial sanctions having coercive impact.13 This call is echoed in various studies and would require the cooperation of both the states imposing the sanctions and the affected target states. However, states imposing sanctions already have comprehensive lists of which targets are being sanctioned;14 compiling this information into a database would be tedious but ultimately invaluable as a step in addressing this issue.

3. UN Imposed Restrictions on Sanctions

Once there is data available on what aspects of economic sanctions lead to human rights violations, as well as the situations where a violation may be looming, Human Rights Advocates proposes that the Council request the Special Rapporteur work to review each instance of sanctions by its impact, and draft guidelines for future sanctions or for addressing present sanctions to minimize the human toll. Each economic sanction should be reviewed thoroughly and each country imposing said sanction should have to take responsibility for the violations its actions cause.

Prior to imposing new sanctions, a country should be required to go through the U.N. or another institutional body and report the likelihood of human rights abuses using empirical data—percent GDP decline, industries affected, unemployment rate changes, public health initiatives, etc. There should be a mandate that certain types of goods and

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10 Economic Sanctions as Human Rights Violations: International Law and the Right to Life. Islamic Human Rights Commission Briefing. May 14, 2013.

11 See Fn. 7.

12 See fn. 2.

13 See fn. 8, p. 7.

14 For example, see U.S. Department of the Treasury: https://www.treasury.gov/resource-center/sanctions/Pages/default.aspx , among others.

industries should be excluded, specifically those related to food and medicine, as well as stricter scrutiny for instances where a country is solely reliant on one type of industry or a possible subsidy arrangement.

4. Appeals process and compensation commission

Once U.N. procedure has been implemented, if a violation has occurred, the target country or citizens should be allowed to appeal the sanction in place and have it adjudicated—either through litigation, ad hoc tribunal, or arbitration. Once a violation is found, the involved country should owe reparations to those affected. The next step would be to set up a process for addressing the compensation.

D. Conclusion

While the use of unilateral coercive measures presents complicated problems, it is not impossible to resolve if the above steps are considered. HRA urges the Council to recommend that the General Assembly follow the Special Rapporteur's guidance to further address the legality of sanctions with extraterritorial reach in its totality, with a view of ultimately establishing a registry, mechanism for institutional oversight (if sanctions are deemed legal at all), an appeals process, and a system for reparations.